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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/795,898	03/08/2004	Dominique Nicolas Cade	25692a	1533
23913 7590 11/01/2007 PFIZER INC Steve T. Zelson 150 EAST 42ND STREET 5TH FLOOR - STOP 49 NEW YORK, NY 10017-5612			EXAMINER LEE, EDMUND H	
			ART UNIT 1791	PAPER NUMBER
			MAIL DATE 11/01/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/795,898

Applicant(s)

CADE ET AL.

Examiner

EDMUND H. LEE

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/20/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 9,13,14,15,and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Gaster (US 2001/0019055). Gaster teaches the claimed process as evidenced at paragraphs 0017-0018 and figs 5-6. In regard to claim 9, it should be noted that the preamble recitation that the capsule is made of pharmaceutical acceptable material has not been given weight because it does not result in a manipulative difference to the process claim. See MPEP 2111.02. In regard to claim 13, it should be noted that the recitation that the capsule is made of pharmaceutical acceptable material has not been given weight because the material of the capsule is not germane to the patentability of the machine/apparatus. See MPEP 2115.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 10-12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaster (US 2001/0019055). The above teachings of Gaster are incorporated hereinafter. In regard to claims 10-12, it is well-known in the molding to clean a molded product after molding and a molding apparatus before the next molding cycle. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to clean the excess sealing fluid from the claimed locations in order to produce a high quality product and to ensure a proper molding operation. In regard to claim 16, sealing clamps having airing and suction ports are well-known in the molding art as effective means for positioning and releasing a preform. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include airing and suction ports in the apparatus of Gaster in order to enhance the positioning and releasing of the preform within the apparatus of Gaster.

5. Applicant's arguments filed 8/2/07 have been fully considered but they are not persuasive. Applicant argues that Gaster does not teach telescopically joining the overlapping bodies; and is not analogous art.

In regard to telescopically joining the overlapping bodies, applicants argument is misplaced because it is clear from fig 5 of Gaster that the overlapping bodies are telescoped, i.e., lid 57 is telescoped within body 56.

In regard to non-analogous art, applicant is reminded that it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned,

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in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Gaster is reasonably pertinent to the problem that the instant invention addresses, i.e., sealing capsules in order to avoid leaking of any content to the outside or contamination thereof. The process and apparatus of Gaster ensures that the content within the container/capsule is not leaked by properly sealing the telescoped bodies of the container/capsule.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following US patents show the state of the art: 4628850, 4235832, 3847694, and 4261947.

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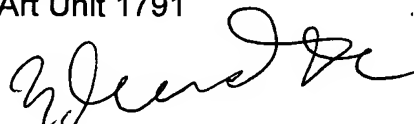
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571.272.1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EHL

EDMUND H. LEE
Primary Examiner
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10/29/07

